

CHAPTER NO. 1065

HOUSE BILL NO. 2090

By Representatives Goins, Mike Walker, Hargett

Substituted for: Senate Bill No. 2138

By Senator McNally

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 35, Part 3, relative to probation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-311, is amended by adding the following new subsection (c) and by relettering present subsections accordingly:

(c)(1) A laboratory report regarding a defendant's drug test may be admissible in probation revocation proceedings, even though the laboratory technician who performed the test is not present to testify, when accompanied by an affidavit containing at least the following information:

- (A) The identity of the certifying technician;
- (B) A statement of qualifications from the certifying technician;
- (C) A specific description of the testing methodology;
- (D) A statement that the method of testing was the most accurate test for this particular drug;
- (E) A certification that the test results were reliable and accurate;
- (F) A declaration that all established procedures and protocols were followed; and
- (G) A statement of acknowledgment that submission of false information in the affidavit may subject the affiant to prosecution for the criminal offense of perjury pursuant to § 39-16-702.

(2) Notwithstanding the provisions of subsection (c)(1), the judge shall, upon seasonable objection and for good cause shown, require that the laboratory technician appear and testify at the probation revocation hearing.

(3) If the state intends to introduce a laboratory report and affidavit in lieu of the live testimony of the laboratory technician as authorized by this subsection, it shall provide the defendant or the defendant's attorney, if known, with a copy of the report and affidavit at least five (5) days prior to the revocation hearing.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 1, 1998


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 19th day of May 1998


DON SNOGRASS, GOVERNOR